

FHWA ENVIRONMENTAL JUSTICE

Frequently Asked Questions

WHAT IS ENVIRONMENTAL JUSTICE AND EXECUTIVE ORDER 12898?

Environmental Justice (EJ) at the Federal Highway Administration (FHWA) means identifying and addressing **disproportionately high and adverse effects** of the agency's programs, policies, and activities on **minority populations** and **low-income populations** to achieve an equitable distribution of benefits and burdens.

A 1994 Presidential Executive Order (Executive Order 12898) directs each Federal agency to develop an agency-wide EJ strategy to implement its requirements. The DOT EJ Strategy includes implementable action items that reflect DOT's commitment to EJ principles and integrating those principles into DOT programs, policies and activities. DOT issued its original EJ strategy in 1995 and it is updated periodically.

WHAT ARE THE FUNDAMENTAL PRINCIPLES OF ENVIRONMENTAL JUSTICE IN DOT?

The fundamental principles of Environmental Justice include the following:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including interrelated social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority populations and low-income populations.

WHAT IS CONSIDERED "LOW-INCOME" HOUSEHOLD FOR PURPOSES OF ENVIRONMENTAL JUSTICE?

The DOT and FHWA environmental justice orders define "low-income" as "a person whose household income is at or below the Department of Health and Human Services poverty guidelines."

The Department of Health and Human Services (HHS) poverty guidelines are used as eligibility criteria for the Community Services Block Grant Program and a number of other Federal programs. However, a State or locality may adopt a higher threshold for low-income as long as the higher threshold is not selectively implemented and is inclusive of all persons at or below the HHS poverty guidelines. The HHS Poverty guidelines are updated annually. The most current HHS poverty guidelines can be found at HHS's website: <http://aspe.hhs.gov/poverty/>

WHO IS CONSIDERED TO BE A "MINORITY" FOR PURPOSES OF ENVIRONMENTAL JUSTICE?

The updated DOT and FHWA environmental justice orders define five (5) minority groups as follows:

- Black (a person having origins in any of the black racial groups of Africa)
- Hispanic or Latino (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
- Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent);
- American Indian and Alaskan Native (a person having origins in any of the original people of North America, South America, including Central America, and who maintains cultural identification through tribal affiliation or community recognition); and
- Native Hawaiian or Other Pacific Islander (people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).

FHWA ENVIRONMENTAL JUSTICE

Frequently Asked Questions

WHAT IMPACTS MUST BE EVALUATED IN AN ENVIRONMENTAL JUSTICE ANALYSIS?

All reasonably foreseeable adverse social, economic, and environmental effects on minority populations and low-income populations must be identified and addressed. As defined in the [DOT and FHWA environmental orders](#), adverse effects include, but are not limited to:

- Bodily impairment, infirmity, illness, or death.
- Air, noise, and water pollution; and soil contamination.
- Destruction or disruption of man-made or natural resources.
- Destruction or diminution of aesthetic values.
- Destruction or disruption of community cohesion or a community's economic vitality.
- Destruction or disruption of the availability of public and private facilities and services.
- Vibration.
- Adverse employment effects.
- Displacement of persons, businesses, farms, or nonprofit organizations.
- Increased traffic congestion, isolation, exclusion, or separation of minority or low-income individuals within a given community or from the broader community.
- The denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.

CAN THE DETERMINATIONS AND DISCUSSIONS OF MINORITY AND LOW-INCOME BE COMBINED?

The two terms "minority" and "low-income" should not presumptively be combined. There are minority populations of all income levels; and low-income populations that may be minority, non-minority, or a mix in a given area.

WHAT ROLE DOES "PUBLIC INVOLVEMENT" PLAY IN THE CONSIDERATION OF ENVIRONMENTAL JUSTICE?

"Public involvement" encompasses public participation, public outreach and public engagement proactive activities. It is an integral part of transportation planning and project development decision-making. Both the DOT EJ Order and FHWA environmental justice order direct Federal agencies to provide minority populations and low-income populations' access to information and meaningful opportunities for public participation in matters that may impact human health or the environment.

Effective environmental justice practice requires an agency to reach out to specific minority or low-income populations to learn about their concerns, needs, and circumstances. This is usually done through some kind of targeted and expanded public involvement.

Addressing environmental justice concerns includes effectively involving the public in the planning process and the project development process. Continuous interaction between community members and transportation professionals is critical to successfully identify and resolve potential environmental justice concerns and in addressing other environmental issues such as historic properties, wetlands and air quality.

WHAT POPULATIONS DO "DISPARATE IMPACT" AND "DISPROPORTIONATE BURDEN" APPLY TO?

"Disparate impact" applies to minority populations and "disproportionate burden" applies to low-income populations. The thresholds for each may differ, depending on the recipient's calculation, or the standards may be identical. Whatever the recipient's standards are, it must determine both the disparate impact on minority populations and the disproportionate burden on low-income populations.

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HOW DO YOU IDENTIFY “DISPROPORTIONATELY HIGH AND ADVERSE EFFECTS”?

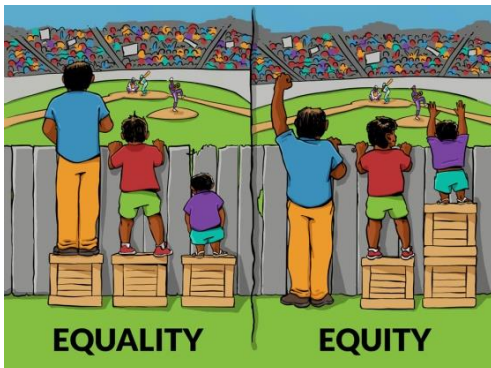
The FHWA and USDOT EJ Orders state that "disproportionately high and adverse" refers to a adverse effect that (1) is predominately borne by a minority population and/or a low-income population; or (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the nonminority population and/or non-low-income population.

"Disproportionately high and adverse" effects may only impact a few people. Practitioners should collect as much information as necessary from relevant sources to make informed decisions. When considering whether effects are "disproportionately high and adverse," practitioners should seek input from the communities that may be impacted.

WHAT SHOULD BE CONSIDERED WHEN DETERMINING WHETHER AN EFFECT IS “DISPROPORTIONATELY HIGH AND ADVERSE”?

Projects cause positive and negative effects, or "benefits and burdens," which may occur in the short, medium, or long term. A comprehensive analysis will include consideration of all of these factors as well as the cumulative effect of a decision in combination with past actions and all other reasonably foreseeable future actions. In determining whether an effect is "disproportionately high and adverse," the USDOT EJ Order notes that practitioners may take the following into account: planned mitigation measures, offsetting benefits to the affected minority and low-income populations, the design, the comparative impacts, and the relevant number of similar existing system elements in non-minority and non-low-income areas.

WHAT IS EQUITY IN TRANSPORTATION AND WHY IS THIS IMPORTANT?



Equity in transportation seeks fairness in mobility and accessibility to meet the needs of all community members. A central goal of transportation equity is to facilitate social and economic opportunities by providing equitable levels of access to affordable and reliable transportation options based on the needs of the populations being served, particularly populations that are traditionally underserved. This population group includes individuals in at least one of the following categories: low income, minority, elderly, children, limited English proficiency, or persons with disabilities. It is important to note that transportation equity does not mean equal.

An equitable transportation plan considers the circumstances impacting a community's mobility and connectivity needs and this information is used to determine the measures needed to develop an equitable transportation network. The graphic listed below illustrates the differences between equality and equity.

SOURCES

<https://www.lep.gov/>

https://www.fhwa.dot.gov/environment/environmental_justice/publications/reference_guide_2015/